

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5287 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BALUBHAI KALIABHAI & Others

Versus

STATE OF GUJARAT & Others

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Appearance:

MR JITENDRA M PATEL for Petitioners

MR NN PANDYA for Respondent No. 1 and 2

None present for Respondent No. 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The only contention made by the learned counsel for the petitioner is that the premium of land ordered by the respondent could have been ordered only when the permission was sought by the petitioner for the transfer of land and not at the stage when the petitioner applied for the conversion of the land used from agriculture to

non-agriculture. A reference in this respect has been made to the provisions of sec. 65 of the Gujarat Land Revenue Code and sec.43 of the Bombay Tenancy and Agricultural Lands Act, 1948. The learned counsel for the petitioner admitted that the land in dispute has been transferred to a Co-operative Society by the petitioner for the construction of the houses thereon. While deciding the application of the petitioner for the conversion of land, a fact has come on record, that the petitioner has agreed to sale this land to a Co-operative Socceity. The agreement to sale dated 4th August, 1975 was already on the record. This agreement to sale was with the respondent no.3 who is a builder. In the presence of the fact that the parties have already entered into an agreement to sale dated 4-8-1975, and in fact, the land has been transferred, no interference is called for by this court. The learned counsel for the petitioner has admitted that on transfer the premium could have been ordered. It is a case where the order impugned serves double purposes and may be a composite order of grant of permission for conversion of land and the transfer. The substance of the matter is to be considered. The transfer has been made by the petitioners as stated earlier. The orders impugned in this Special Civil Application does not cause any prejudice to the petitioner which calls for interference by this Court. In the result, this Sp. Civil Application fails and the same is dismissed. Interim relief passed by this Court stands vacated.

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